IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.9362 of 2014
And
WMP No.1 of 2014

1.P.Valmurthy (Deceased)
2.Rani
3.Pachaimmal
4.Mekala
5.Bhaskaran
6.Shiva
7.Prabhakaran
8.Sridevi
9.Agastia
10.Gobi
11.Babu
12.Sudha
[P-2 to P-12 are substituted as LRs of deceased
P-1 P.Valmurthy as per order of Court dated
16.03.2018 made in WMP No.4386 of 2018
in WP No.9362 of 2014] ... Petitioners

Vs.

1.District Collector,
Thiruvallur,

Office of District Collectorate,
Thiruvallur-602 001.

2.District Revenue Officer – Thiruvallur,
Office of District Collectorate,
Thiruvallur-602 001.

3.Revenue Divisional Officer,
Ambattur Taluk,
Ambattur,
Chennai-54.

4.Tahsildar,
Madhuravoyal,
Alapakkam,
Chennai-600 095.
[R-3 and R-4 substituted in the place of
existing respondents 3 and 4 vide order of Court
dated 17.09.2014 made in MP No.2 of 2014
in WP No.9362 of 2014] ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent and quash the order passed in Na.Ka.8577/09/AA3 dated 08.11.2013 and direct him to rectify the mistake and grant 18 cents of land in Survey No.103 to the petitioners 2 to 12 herein with immediate effect.

For Petitioners : Mr.K.Mohanamurali

For Respondents-1 to 4 : Mr.T.Arunkumar,
Additional Government Pleader.

ORDER

The order passed by the District Revenue Officer, Thiruvallur in proceedings dated 08.11.2013, rejecting the claim of the deceased first petitioner to correct the boundaries in the patta proceedings, is under challenge in the present writ petition.

2. The deceased first petitioner states that he is the co-owner of the piece of land along with his brother late Mannar in Survey No.103/2 measuring an extent of 74 cents, Nollambur village, Sembium Sub District, Chengalput District by Sale Deed registered as document No.3519 of 1963 dated 14.11.1963 in the Sub Registrar Office, Sembium. The deceased first petitioner was in possession and enjoyment of the said land. Patta was granted in the name of the deceased first petitioner.

3. Pursuant to the requisition made by Tamil Nadu Housing Board, Notification under Section 4(1) of the Land Acquisition Act, was issued.

4. It is not in dispute that 56 cents belonged to the deceased first petitioner alone was acquired for the purpose of benefit of the Tamil Nadu Housing Board to develop the Neighbour Hood Scheme. It is not in dispute that the acquired land was re-conveyed and accordingly 56 cents were now with the possession of the legal heirs of the deceased first petitioner.

5. Grievance of the deceased first petitioner is that as per Sale Deed, he was owning 74 cents of land and 56 cents land was re-conveyed in favour of the deceased first petitioner and remaining 18 cents was mistakenly included along with the 'Government Poramboke' lands.

6. The learned Additional Government Pleader, appearing on behalf of the respondents, objected the contentions raised on behalf of the

legal heirs of the deceased first petitioner by stating that the land was acquired. Admittedly, the Tamil Nadu Housing Board conducted survey of the entire area before the award proceedings and found that the legal heirs of the deceased first petitioner were in possession of the 56 cents of land, which is contrary to the title documents produced by the legal heirs of the deceased first petitioner.

7. The learned counsel for the petitioners mainly contended that 18 cents land was mistakenly incorporated along with 'Government Poramboke' land and therefore, the mistake occurred is to be rectified and for the balance land extending 18 cents, patta is to be granted in favour of the legal heirs of the deceased first petitioner.

8. The learned Additional Government Pleader objected the contentions raised on behalf of the deceased first petitioner by stating that the deceased first petitioner is not entitled for the relief and relying on paragraphs 4 and 5 of the counter-affidavit, made a submission that the legal heirs of the deceased first petitioner are under mistaken impression that the portion of the deceased first petitioner's land to an extent of 18 cents were

mistakenly added along with poramboke lands. In fact, the said statement is contrary to the Field Inspection conducted by the Competent Authorities, including Tamil Nadu Housing Board.

9. In this regard, the counter-affidavit filed by the District Revenue Officer, Thiruvallur reads as under:-

> *"The land in S.No.103/2 measures an extent of 0.74 acre, but on measurement and on ground it was fond that it measures only an extent of 0.56 acres. Hence necessary area errata proposals were submitted to the District Revenue Officer, Kanchipuram. The District Revenue Officer, in his proceedings Rc.No.63700/86/H1 dated 26.05.1986 has approved the area erratum proposals. The true extent as measured and mapped by the survey staff come to 0.56 acre only and this has been adopted in this award. The difference in extent as stated above has not been disputed by the land owners. Accordingly, an extent of 0.56 acre was adopted as the true area of the land".*
>
> *From the above recital, it has clearly been proved beyond that the true area of S.No.103/2 is*

0.56 acre alone and not 0.74 acre as claimed by the petitioner. The fact remains also therein that the petitioner has not disputed about the difference in extent before the Land Acquisition Authority at the time of enquiry conducted by them on 16.07.1984. Thus, the writ petitioner was afforded a notice of hearing on 14.11.1978 in regard to area errata in respect of S.No.103/2 and he did not object the same. During the enquiry conducted by the Land Acquisition Authority on 16.07.1984, he must be aware that the true area in respect of S.No.103/2 is 0.56 acre alone but not 0.70 acre and as such he had not disputed the difference in area at the time of the above enquiry too. If an extent of 0.56 acre alone out of 0.70 acre in S.No.103/2 belonging to the petitioner was acquired by the Tamil Nadu Housing Board leaving the remaining extent of 0.18 acre unacquired as stated by the petitioner in para-3. Hence the contentions raised in para 5 of the petitioner are totally beseless and devoid of merits."

"Subsequent to the publication of 4(1) notice under Land Acquisition Act, 1894, it was found that the ground measurement of S.No.103/2

with reference to schedule of the property is 0.56 acre alone instead of the registered extent of 0.74 acre thereto. Hence necessary area errata proposals were sent to the District Revenue Officer, Kanchipuram after serving the prescribed hearing notice to the petitioner on 14.11.1978. As the area errata proposals submitted by the Land Acquisition Authority concerned had been in order, the District Revenue Officer in the order dated 26.05.1986 approved the area erratum. Further, the petitioner has not disputed about the difference in the area in respect of the Survey Number 103/2 purchased by him in the 5A enquiry conducted by the Land Acquisition Authority concerned. Even at the time of registration of reconveyance Sale Deed, it seems that he would have not made any representation to the Authority concerned for the grant of the non-existence extent of 0.18 acre on ground. After a lapse of 28 years of the orders passed by the District Revenue Officer, Kanchipuram and the Award No.9/86 passed by the Special Tahsildar, Land Acquisition – II, Tamil Nadu Housing Board Schemes, Chennai-600 083, the petitioner has applied for the grant of patta for the imaginary short fall *extent of 0.18 acre with the mala fide intention to grab the Government Poramboke land or the reasons best known to him. Hence, the claim of 0.18 acre of the petitioner for a non-existing portion is clearly a bad one on the eyes of law."*

10. The learned counsel for the petitioners relied on the report submitted by the Tahsildar and the Revenue Divisional Officer and those documents are recommendatory in nature. However, the District Revenue Officer, Thiruvallur finally scrutinised the documents and found that no mistake occurred in respect of the entries made in the Registers. The land to an extent of 56 cents alone was acquired from the petitioner, which was re-conveyed and remaining lands are classified as 'Meikkal' lands that is 'Grazing' lands and therefore, the present writ petition filed by the lgal heirs of the deceased first petitioner at this length of time cannot be considered.

11. This Court is of the considered opinion that there is no infirmity in respect of the procedures followed by the Competent Authorities in ascertaining the facts. The power of Judicial Review of the High Court under Article 226 of the Constitution of India is to ensure the

processes through which a decision has been taken by the Competent Authorities in consonance with the Statutes and the Rules in force, but not the decision itself.

12. The District Revenue Officer considered the recommendations made by the Subordinate Authorities and found that there was no discrepancy in respect of the acquisition proceedings initiated and after dropping the proceedings, the land, which was acquired, was re-conveyed in favour of the deceased first writ petitioner to an extent of 56 cents. The land belonging to the deceased first petitioner was not added along with 'Government Poramboke' lands and the poramboke lands existed prior to acquisition was being maintained and confirmed by the Authorities.

13. This being the decision taken, this Court do not find any infirmity in respect of the decision arrived by the District Revenue Officer, Thiruvallur.

14. Accordingly, the present writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected

miscellaneous petition is also dismissed.

12-09-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

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S.M.SUBRAMANIAM, J.

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